

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO**

RAMON AYALA OLIVERAS

Plaintiff

Vs.

MAPFRE

Defendant

CIVIL NO. 06-1531 CCC

RE: TORTS

Plaintiffs demand trial by jury

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06 MAY 30 AM 11:11  
U.S. DISTRICT COURT  
SAN JUAN, P.R.

**COMPLAINT**

**TO THE HONORABLE COURT:**

**COME NOW** the Plaintiff, through the undersigned attorney, and very respectfully state, allege and pray:

1. This Honorable Court has jurisdiction over the defendant MAPFRE pursuant to 28 U.S.C. sect. 1332 over state law claims under Articles 1802 of the Civil Code of Puerto Rico, section 5141 et seq. of Title 31 of the Laws of the Puerto Rico Annotated, in that complete diversity of citizenship exists between the plaintiff and the defendant herein and the amount in controversy for the plaintiff exceeds the sum of \$75,000 exclusive of interests and costs.

**IDENTIFICATION OF PLAINTIFF**

2. MIGUEL FONSECA OLIVERAS died at the age of 30 in a motorcycle accident, in which his motorcycle was impacted by a motorcycle owned by the MUNICIPALITY OF BARCELONETA.

3. Plaintiff RAMON AYALA OLIVERAS is the brother of the deceased MIGUEL FONSECA OLIVERAS. Plaintiff RAMON AYALA OLIVERAS is a citizen of the state of New Jersey for purposes of the diversity of citizenship jurisdiction under the applicable statutes.

#### **IDENTIFICATION OF DEFENDANT**

4. At all times herein material, the defendant MAPFRE is believed to have issued an insurance policy for the benefit of MUNICIPIO DE BARCELONETA, the owner of the motorcycle that caused the death of Miguel Fonseca.
5. The defendant MAPFRE is a Puerto Rico resident for purposes of the “diversity of citizenship jurisdiction” under the applicable statutes.

#### **OCURRENCES AND LIABILITY**

6. On Nov. 24<sup>th</sup> 2005 Miguel Fonseca Oliveras, 30 years old, died in a motorcycle accident.
7. Mr. Miguel Fonseca Oliveras was driving his motorcycle on Street # 682, Km. 2.7 (Municipality of Barceloneta) when suddenly and unexpectedly he got hit by another motorcycle.
8. The motorcycle that impacted Mr. Fonseca Oliveras was being driven by a Municipal guard whose name was Félix Ríos Acevedo Said motorcycle was owned by the MUNICIPALITY OF BARCELONETA.

9. The Municipal guard, Mr. Ríos Acevedo was acting under the scope of his employment when the accident occurred.
10. The accident occurred on the lane in which Mr. Fonseca was driving. Mr. Fonseca's lane was invaded by the motorcycle being driven by the Municipality guard.
11. The negligent maneuver of the Municipality guard was so sudden that it took Mr. Fonseca Oliveras completely by surprise.
12. A huge head on collision resulted due to the invasion of the lane by the Municipality Guard's motorcycle. The impact occurred early in the morning hours when it was still dark.
13. The Municipality Guard was the sole responsible of the occurrence of the accident in which Mr. Fonseca Oliveras died.
14. The defendant MAPFRE is responsible for the payment of any monetary award issued by a jury in this case, since they issued an insurance policy that would cover the damages caused by this accident.
15. The emotional damages suffered by the plaintiff were caused solely by the negligence of the Municipality guard.
16. The damages suffered by the plaintiff were caused solely by the negligence of the Municipality guard. The plaintiff nor the deceased were negligent in their actions.

**DAMAGES**

17. As a direct result of this unnecessary accident, the plaintiff RAMON AYALA OLIVERAS has and will suffer mental and emotional damages which are estimated in an amount in excess of \$250,000.

**PRAYER**

Wherefore, in view of the foregoing, the plaintiff respectfully request that judgment be entered in against defendants in the amount in excess of \$250,000 plus costs, expenses and a reasonable amount of attorney's fees.

In San Juan, Puerto Rico, this 30<sup>th</sup> day of May of 2006.

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